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# DIGEST OF WATER POLLUTION CONTROL LEGISLATION. MISSOURI

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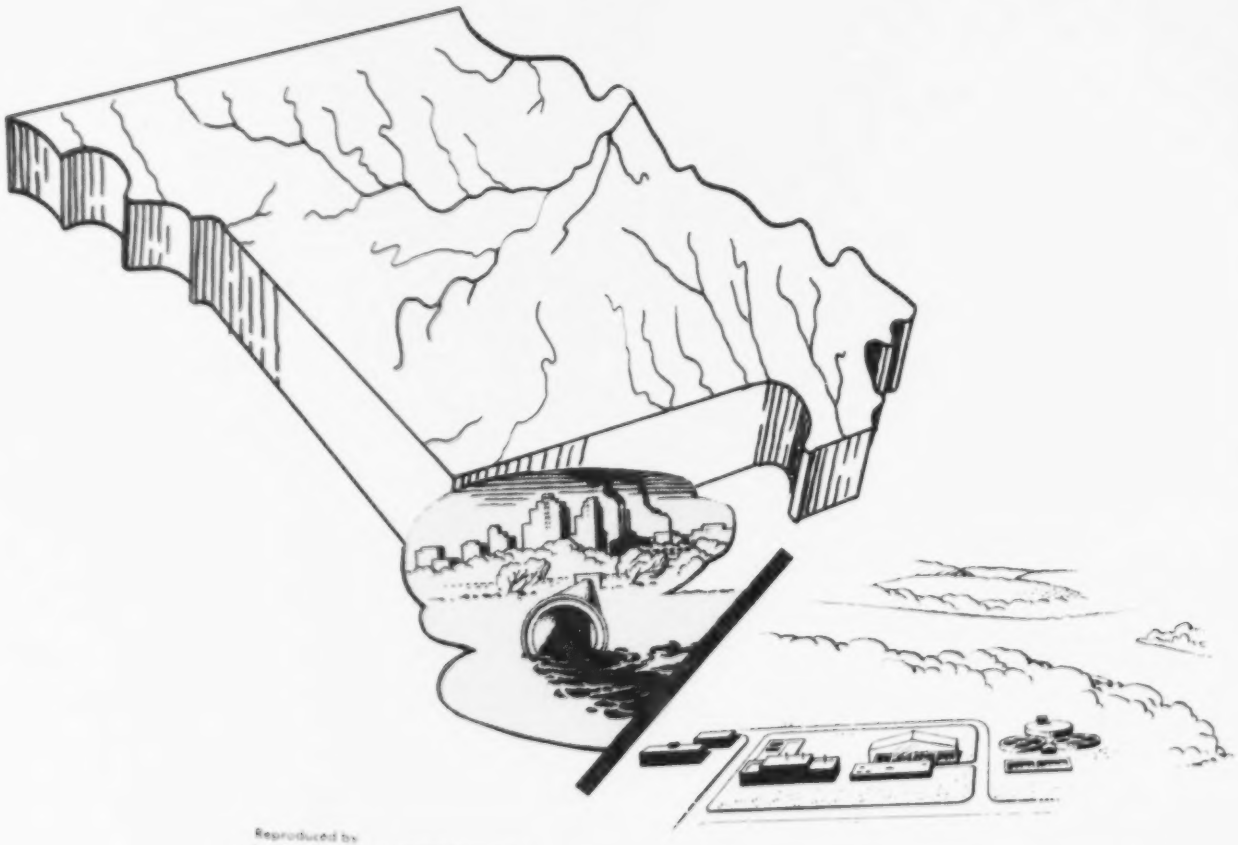

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Public Health Service

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Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

September 1958

# DIGEST OF MISSOURI WATER POLLUTION CONTROL LEGISLATION

## I. GENERAL STATEMENT

The 1957 Legislature enacted a new water pollution control law for the State and placed its administration in a new Board designated as the Water Pollution Board. This Board is created within the Division of Health of the Department of Public Health and Welfare, and is authorized to prepare a comprehensive plan for the prevention of any further pollution and the reduction of existing pollution after making a study of existing practices and a survey of the waters of the State.

The Board is designated as the Water Pollution Agency of the State for all purposes of any Federal water pollution control act.

The Act defines "pollution" as the discharge of sewage, industrial or other wastes into the waters of the State in such condition, or quantity as to cause the waters to be contaminated, unclean, impure, odorous or noxious to such an extent as to be detrimental to public health, to create a public nuisance, to kill or have an unreasonably harmful effect upon fish or other aquatic life, or upon game or other wildlife, or be unreasonably detrimental to agricultural, industrial, recreational or other reasonable uses.

"Waters of the State" is defined as all rivers, streams, lakes and other bodies of surface or subsurface water lying within or forming a part of the boundaries of the State which are not entirely confined and retained completely upon the property of a single individual, partnership or corporation. (Secs. 204.010-204.170; (Laws of Missouri, 1957, Senate Bill No. 25)) 1/.

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1/ Citations in this digest refer to Vernon's Annotated Missouri Statutes, and the 1956 Cumulative Supplement thereto, unless otherwise indicated.

The Division of Health of the Department of Public Health and Welfare, is empowered to make and enforce rules and regulations for the maintenance of a safe quality of water dispensed to the public and for the collection of samples and analysis of water, furnished to the public and fixing fees for such service (Sec. 192.180).

Every municipality, company or individual supplying water to the public must file with the Division a certified copy of the plans and surveys of the water works with a description of the methods of purification and the source from which the supply is derived. No source of supply may be used without a written permit from the Division, and no new supplies can be established or dispensed to the public without first obtaining a written permit of approval from the Division. Whenever an investigation of any water supply, plant or methods used is undertaken by the Division, it is the duty of the municipality, company or individual in charge of such water facility to furnish the Division such information as it considers necessary to determine the sanitary quality of the water being dispensed. Approval of new water supplies for municipalities must necessarily involve consideration of sewage provisions for safety to the public health. (Sec. 192.200).

## II. ADMINISTRATIVE ORGANIZATION

### Water Pollution Board

#### 1. Composition and organization

The Board is created within the Division of Health of the Department of Public Health and Welfare. It consists of six members appointed by the Governor with the consent of the Senate; three from each of the political parties casting the highest and the next highest number of votes for Governor at the last preceding election. The members selected are to represent the following interests: one from agriculture, one from industry, one from

municipalities, one from recreation, fish and wildlife, one from mining, and one from the public at large. The original Board members are selected as follows: two for two years, two for four years, and two for six years. Succeeding members are appointed for six-year terms. At the first meeting of the Board, and annually thereafter, the members select from among themselves a Chairman and a Vice Chairman. The Board also selects a qualified person as Executive Secretary who acts as its administrative agent. The Board meets at least quarterly. The Chairman can call special meetings, and, on the request of four members, must call a special meeting. Four members constitute a quorum (Sec. 204.070).

2. Powers and duties

a) Development of comprehensive program

The Board is authorized to develop a comprehensive plan for the prevention and reduction of pollution after a study of existing practices and available research. It is also empowered to establish and revise standards of water purity which specify the maximum degree of pollution permissible in accordance with public interest in water supply, the conservation of fish, game and aquatic life, and agricultural, industrial and recreational uses. Before establishing or revising the standards of water purity, the Board must consider the technical means available for the reduction of pollution, the economic factors involved, and must hold an open public hearing with reasonable notice to persons whom the Board knows are interested therein. The Board must give opportunity to any persons who wish to be heard upon the question of standards of water pollution at the time of the public hearing (Sec. 204.080(4)(9)).

b) Issuance of permits and review of plans and specifications

Anyone desiring to erect or modify facilities or an operation of any type which will result in the discharge of sewage, industrial or other wastes into the waters of the State, must apply to the Board for a permit. The Board may require the submission of plans and specifications and other information. In issuing a permit, the Board may specify therein conditions under which the discharge is to be made. A permit is also required before anyone may: (1) construct, or modify any outlet or system for disposal of sewage, industrial or other wastes when such disposal constitutes pollution as defined in the Act; (2) increase the volume or strength of any sewage or other wastes in excess of permissive discharges specified under any existing permit. The Board is authorized to modify or revoke permits; however, it must give the permit holder 30 days' written notice of its intention to do so (Sec. 204.030).

c) Enforcement

A hearing must be granted by the Board to anyone taking exception to any order of the Board or any action relative to a permit. The Board may conduct the hearing itself or delegate such power to an Attorney. The Board, Hearing Officer or Executive Secretary is authorized to issue subpoenas and require the attendance of witnesses and the production of evidence. Any members of the Board or the Executive Secretary may administer oaths and examine witnesses. (Sec. 204.050(1)(2)). The Board must give the petitioner 30 days' written notice of the time and place of the hearing. The petitioner and any other interested party may appear at the hearing, present and examine witnesses and submit evidence (Sec. 204.050(3)). The Board is required to keep a record of the proceedings in the hearing and to make findings, and

issue an order and decision. The order and decision must be concurred in by a majority of the appointed members of the Board who shall have considered the evidence in the proceeding before voting thereon, and is final in the absence of an application for review (Sec. 204.050(4)).

An aggrieved party may obtain a judicial review of any final decision, finding or order of the Board by filing with it an application for review within 15 days after receiving notice of the final decision, finding or order, failing which, such order becomes final to the same effect as the judgment of the Circuit Court. Within 15 days after receiving the application for review, the Board must transmit to the Circuit Court of the county where the applicant resides, or at the option of the applicant to the Circuit Court of Cole County, a certified copy of the entire record of the proceedings, including a transcript of the evidence. The filing of such an application acts as a stay of the Board's decision or order. The Circuit Court hears the case without a jury, as in an equity proceeding. The Court may consider additional evidence and also determine the reasonableness of any standards of water purity and of any regulation or rule upon which a final decision, finding or order of the Board may be based. The Board or the aggrieved party may appeal the judgment of the Circuit Court in the manner provided by law for appeals from the Circuit Court in civil cases (Sec. 204.060).

Whenever a person refuses to cooperate with the Board in efforts to reduce pollution, the Board may issue an order against such violator. However, the Board must give such person a reasonable time to make the necessary financial arrangements or other preparations for the elimination of pollution before enforcing its order (Sec. 204.040(3)(4)).

The Board has the authority to investigate any apparent violation and take any action authorized under the Act as it deems necessary, and may, after a public hearing, institute appropriate action to enforce the provisions of the Act by proper legal proceedings (Sec. 204.100).

Anyone who violates any provisions of the Act or order of the Board promulgated pursuant to the Act, is punishable by a fine of not less than $25 nor more than $500, or by imprisonment for not more than 90 days in the county jail, or both. In the event of a continuing violation, the person becomes liable to a fine of not more than $100 for each day the violation continues after a final decision has been rendered finding that a violation has occurred (Sec. 204.170).

d) Conduct of studies, investigations and research

The Board is authorized to make surveys of the waters of the State to determine the extent, character and effects of existing conditions of pollution (Sec. 204.080(3)). It can also conduct such investigations as it finds necessary to carry out its functions under the Act (Sec. 204.080(10)).

e) Cooperation with other public and private agencies

The Board is empowered to supply to anyone causing pollution of the waters of the State technical and scientific information as may be helpful in reducing or eliminating the polluting effects of the discharge (Sec. 204.040 (2)). The Board is authorized to cooperate with agencies of the Federal government and state and municipal agencies in preventing and controlling pollution. It may enter into agreements and compacts with other states and with the United States relative to the prevention and control of pollution in interstate waters (Sec. 204.090(2)(3)).

f) Administrative powers

The Board is authorized to adopt rules and regulations for the administration of the Act and for conducting meetings and hearings (Sec. 204.080(6)(8)). It may hold hearings, and issue orders and permits (Sec. 204-050(4), 204.080 (7)). Its agents may enter private or public property at reasonable times to investigate conditions relating to pollution and to inspect the operating records of any sewage system, or waste treatment plant (Sec. 204.130). It is empowered to take all necessary action to obtain for the State the benefits of any Federal Act; apply for and receive Federal funds made available under any Federal Act; approve projects for which loans or grants under any Federal Act are made to any municipality or agency of the State; and participate in proceedings under any Federal Act and recommend measures for the reduction of water pollution originating within the State (Sec. 204.120). The Board is required to file biennial reports with the Governor and members of the General Assembly (Sec. 204.110).

3. Preservation of existing rights and remedies

Nothing in the Act alters or abridges any right of action now or hereafter existing in law or equity, civil or criminal, nor is any provision of the Act to be construed as stopping any person, as a riparian owner or otherwise, from exercising his rights to suppress nuisances or to abate any pollution now or hereafter existing (Sec. 204.160). Nothing in the Act is to prevent any drainage or levee district from using the means of maintaining its ditches and levees as in its judgment may be most efficient and economical to the taxpayers in the districts (Sec. 204.150).

4. Statement of policy

Whereas the people of the State are dependent on the rivers, streams, lakes and subsurface waters of the State for public and private water supply and for agricultural, industrial and recreational uses, it is the policy of the State to act in the public interest to restore and maintain a reasonable degree of purity in the waters of the State, and to require, where necessary, reasonable treatment of sewage, industrial wastes or other wastes prior to their discharge into the waters of the State (Sec. 204.020).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is unlawful:

For anyone to put any dead animal or other filth into any well, spring, brook, branch, creek, pond, lake, stream or watercourse, other than the Missouri or Mississippi Rivers (Sec. 564.010).

For anyone to willfully poison, defile or in any way corrupt the water of a well, spring, brook, or reservoir used for domestic or municipal purposes (Sec. 564.020).

For anyone to place any deleterious substances into any waters of the State in quantities sufficient to injure, stupefy or kill fish. It is not a violation for anyone engaged in industry, to cause or permit any water subject to his control or used in such industry to be so discharged under such precautionary measures as have been specifically approved by the Conservation Commission (Sec. 252.210).

For anyone to kill, catch or take any fish by explosive substances. Explosive substances may be used in waters with the permission and under the supervision of the Conservation Commission (Sec. 252.220).